

GUIDELINES FOR SECURING ATTORNEY GENERAL REPRESENTATION FOR COURTS

State Court Administrative Office (12/04)

Whenever a tort or civil rights action is commenced against a court or a judge, the Attorney General, at the request of the State Court Administrative Office, may appear for and represent the judge or court to which the judge was elected or assigned. Representation is primarily intended to cover situations in which the court or the judge may become responsible for monetary damages. If a court employee is named as defendant in a lawsuit where the Attorney General is representing a judge or a court, the Attorney General may consider representation of the court employee as well, unless there is a potential conflict in extending representation. The Attorney General will not provide representation in proceedings before either the Judicial Tenure Commission or the Attorney Grievance Commission, and will not represent the court or judge in superintending control or mandamus actions.

Any judgment or settlement of a lawsuit against a judge or court remains the financial responsibility of the court's local funding unit, regardless of whether the Attorney General provides representation. Out of pocket costs such as transcript fees, etc. will also be the responsibility of the court's funding unit.

Representation by the Attorney General is not mandatory. The court or judge may choose to seek representation independently through private counsel paid for by the funding unit (or an insurance carrier), or from counsel available through the court's funding unit.

If Attorney General representation is desired:

1. A written request should be made, by the chief Judge of the court or his/her designee, to the State Court Administrator. The request must be made as soon after service of the complaint as practical. The request must include a copy of all pleadings served, as well as copies of other relevant material, and should indicate the date of service. No responsive pleadings should be filed prior to determining whether the Attorney General will enter an appearance on behalf of the judge or court. The request and attachments should be directed to:

Carl L. Gromek
State Court Administrator
State Court Administrative Office
Michigan Hall of Justice, P.O. Box 30048
Lansing, MI 48909
Telephone: (517) 373-0128 FAX: (517) 373-9831

A copy of the request should be directed to the Regional Administrator.

2. The SCAO will make a request for representation to the Attorney General's office as soon

as the request and materials are received, and will notify the requesting judge or court of any problems with securing representation. Once the Attorney General has accepted the case, the Assistant Attorney General assigned will contact the requesting judge or court directly for detailed information regarding defense of the case, and will keep the SCAO advised of progress as necessary.

3. The following limitations generally apply to Attorney General representation:
 - a. Representation will not be provided for cases involving a writ of superintending control or a writ of mandamus against the judge or court, or similar action. (In many such cases, the writ is derivative of an action to which a judge is assigned and may still be pending; it is often more appropriate for the opposing party to respond.)
 - b. Representation will usually not be provided in situations where the judge(s) or court have already filed pleadings, or where other counsel have filed pleadings on behalf of the judge(s) or the court. Accordingly, it is critical to request Attorney General representation as early as possible after service or receipt of initial pleadings.
 - c. The Attorney General's office will not enter into co-counsel arrangements with other attorneys retained on behalf of judges or courts. If alternative counsel are obtained for other defendants, the Attorney General's office will, of course, communicate with other counsel as appropriate for defense of the case.
 - d. Representation by the Attorney General does not mean that the SCAO or the Attorney General will indemnify the judge or court for any judgment or settlement resulting from the action. Liability for judgments, settlements, and out of pocket expenses for defending a case remain the responsibility of the court's funding unit.